

REMARKS

Claims 1-40 are pending in the Application, and all have been rejected in the Office action mailed May 27, 2009. Claims 1, 9, 12, 14, 21-23, 25, 33, 34, and 36 are amended and claims 8, 20, and 32 are cancelled by this response. Claims 1, 14, and 25 are independent claims from which claims 2-7 and 9-13, claims 15-19 and 21-24, and claims 26-31 and 33-40 depend, respectively. Applicants respectfully request reconsideration of pending claims 1-7, 9-19, 21-31, and 33-40, in view of the remarks that follow.

The Applicants note that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is **essential** that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, **each claim should be reviewed for compliance with every statutory requirement for patentability in the initial review of the application**, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, **USPTO personnel should state all reasons and bases for rejecting claims in the first Office action**. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, USPTO personnel should indicate how rejections may be overcome and how problems may be resolved. **A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.**

M.P.E.P. §2106(II) (emphasis added).

As such, the Applicants assume, based on the goals of patent examination noted above, that the **current** Office Action sets forth "**all** reasons and bases" for rejecting the claims.

Rejections of Claims

Non-Statutory Obviousness-Type Double Patenting

Claims 1-3, 5, 6, 7, 11, and 12 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-3, 5, 7, 8, 10, and 11 of Application Serial No. 10/667,833. Applicants respectfully traverse the rejection.

According to M.P.E.P. §804(II)(B)(1), "...the analysis employed in an obviousness-type double patenting rejection parallels the guidelines for analysis of a 35 U.S.C. 103 obviousness determination. *In re Braat*, 937 F.2d 589, 19 USPQ2d 1289 (Fed. Cir. 1991); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985)." The M.P.E.P. goes on to state:

Any obviousness-type double patenting rejection should make clear:

(A)The differences between the inventions defined by the conflicting claims — a claim in the patent compared to a claim in the application; and

(B)The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue is anticipated by, or would have been an obvious variation of, the invention defined in a claim in the patent.

(emphasis added)

In addition, M.P.E.P. §804(II)(B)(1)(a) states, in part, "...[u]nless a claimed invention in the application would have been anticipated by, or obvious over a claimed invention in the patent, **no double patenting rejection of the obvious-type should be made....**"

Applicants respectfully submit that the Office has not established a *prima facie* case of either anticipation or obviousness with respect to claims 1-3, 5, 6, 7, 11, and 12 over the cited claims of Application Serial No. 10/667,833. Initially, Applicants respectfully submit that the totality of support provided by the Office for this rejection is simply a two-column listing of the language of only claims 1, 2, 3, 6, and 11 of the

Application, aligned with claims 1, 2, 3, 7, and 11 of Application Serial No. 10/667,833.
The Office fails to even address rejected claims 5, 7, and 12 of the Application.

Further, although the Office has neatly arranged selected claims in a side-by-side format, the Office fails to show all features of claim 1 of the Application and all features of claim 1 of the co-pending application, so that a complete comparison of the claims has been made of record. Further, the Office fails to provide the **required** "...reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue is anticipated by, or would have been an obvious variation of, the invention...." See M.P.E.P. §2142. **Applicants respectfully submit that the Office does not provide the required "explicit analysis" or any "articulated reasoning" explaining why the elements of Applicants' claims are either anticipated or obvious in view of the cited claims of co-pending Application Serial No. 10/667,833.** Instead, the Office offers only the following conclusory statement:

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in application [sic] are the same subject matter to the claims in the copending application although the claims in copending application are broader than the claims in application.

Applicants respectfully submit that if the claims in the co-pending application were simply broader than the claims in the Application, as asserted by the Office, then all aspects of claim 1 of the co-pending application would be apparent in claim 1 of the Application. That is not the case. In a first example, claim 1 of the asserted co-pending application¹ recites "at least one server for storing and distributing 3rd party media." The Office has failed to demonstrate where that aspect of claim 1 of the co-pending application appears in claim 1 of the Application. In a second example, claim 1 of the co-pending application recites "to support delivery via the communication network of the 3rd party media from the at least one server, and the first media from the first storage, to the second home, and the 3rd party media from the at least one server, to the first

¹ As claim 1 appears in the listing of claims submitted April 15, 2009.

home, for concurrent consumption of the 3rd party media by the first television, and the 3rd party media and the first media by the second television.” The Office has again failed to demonstrate where these features of claim 1 of the co-pending application appears in claim 1 of the Application. For at least these reasons, Applicants respectfully submit that it is not true that “the claims in copending application are broader than the claims in application,” as asserted by the Office.

In response to Applicants’ previous arguments filed March 5, 2009, the Office simply offers additional conclusory statements, without specifically addressing the limitations of claim 1 of the co-pending application, and claim 1 of the Application, as required by M.P.E.P. §804(II)(B)(1) and M.P.E.P. §2142. *See* Office action at page 14.

Applicants respectfully maintain that the Office fails to even reproduce, let alone address all of the features of independent claims 1 of the Application and of cited Application Serial No. 10/667,833, as clearly demonstrated above. Applicants again wonder why the Office devotes so much of the comparative listing to the features of Applicants’ dependent claims 2, 3, 6, and 11 and the allegedly corresponding dependent claims 2, 3, 7, and 11 of Application Serial No. 10/667,833, when the Office fails to even list, let alone address, all of the features of Applicants’ claim 1 and all of the features of claim 1 of Application Serial No. 10/667,833, which are, by definition, part of all of the dependent claims. Applicants respectfully submit that the selected claims of the Application and the allegedly corresponding claims of the co-pending Application Serial No. 10/667,833 recite different features and patentably distinct subject matter, and that the Office has not shown that a non-statutory obviousness-type double patenting rejection is appropriate, in that it has not shown where “...at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s).”

Therefore, for at least the reasons set forth above, Applicants respectfully submit that the Office has failed to establish a *prima facie* case of either anticipation or obviousness, as required by M.P.E.P. §804(II)(B)(1) and M.P.E.P. §2142, that a non-

statutory obviousness-type double patenting rejection is improper, and respectfully request that the non-statutory obviousness-type double patenting rejection of claims 1-3, 5, 6, 7, 11, and 12 be reconsidered and withdrawn.

Rejections Under 35 U.S.C. 103

Claims 1-40 were rejected under 35 U.S.C. §103(a) as being unpatentable over Alba (US 20040132403) in view of Whelan, et al. (US 20040203593, hereinafter "Whelan"). The Applicants respectfully traverse the rejection.

Applicants first review the requirements for establishing a rejection under 35 U.S.C. §103. According to M.P.E.P. §2142, "[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness." M.P.E.P. §2142 further states that "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." As recognized in M.P.E.P. §2142, "[t]he Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007), 82 USPQ2d 1385, 1396 noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit." In addition, the Federal Circuit has made clear that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 127 S. Ct. 1727 (2007), 82 USPQ2d at 1396.

In addition, M.P.E.P. §2143.03 states, in part:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending

therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Thus, the law is clear that words of a claim cannot be merely disregarded during examination. Instead, all the words in a claim must be considered during the examination process.

As an initial matter, Applicants respectfully submit that the Office is interpreting the term "user interface" in a manner inconsistent with its ordinary plain meaning as understood by those of ordinary skill in the relevant art at the time of the invention. According to M.P.E.P. §2111.01(I):

****>Although< claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re American Academy of Science Tech Center*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004) (The USPTO uses a different standard for construing claims than that used by district courts; during examination the USPTO must give claims their broadest reasonable interpretation >in light of the specification<.). **This means that the words of the claim must be given their plain meaning unless **>the plain meaning is inconsistent with< the specification. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (discussed below); *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004)****

(bold added)

Without specifically identifying a claim, the Office responds to Applicants' arguments of March 5, 2009 regarding a "user interface" by providing its own definition stating, in part, at Section 1 on page 15 of the instant Office action:

User interface is defined "(UI) *The aspects of a computer system or program which can be seen (or heard or otherwise perceived) by the human user, and the commands and*

mechanisms the user uses to control its operation and input data".

(emphasis in original)

Applicants respectfully submit that the above definition, presented without citation to authority, states that a "user interface" is "the aspects of a computer system or program which can be seen (or heard or otherwise perceived) by the human user." Applicants respectfully submit that the "WAN 110" and "wireless cable networking gateway 120" are not "user interfaces," even by the definition selected by the Office. Applicants respectfully submit that, although equipment for a "WAN 110" or a "wireless cable networking gateway 120" may be perceivable by a human, the Office has not explained how and why the "WAN 110" and "wireless cable networking gateway 120" cited by the Office constitute a "user interface" as defined by the Office. Applicants respectfully submit that a human user clearly cannot perceive signals of the "WAN 110" or "wireless cable networking gateway 120." The Office fails to recognize this when it asserts, at page 15, that "Alba explicitly teaches or suggests a **"user interface"** as **"premises cable interface"** in teaching of **"wide-area and premises cable interfaces** (i.e. "WAN 110" and "wireless cable networking gateway 120") **for coupling the wireless cable networking gateway to respective wide-area and premises cable networks**(i.e. "TV cable backbone 132" of Fig. 4)"(Alba, ¶0009)." (italics and bold in original) Applicants respectfully submit that this argument by the Office clearly states that the "wide area and premises cable interfaces" are for coupling the "wireless cable networking gateway" to respective "wide area and premises cable networks." Alba describes the "wireless cable networking gateway 120" at paragraph [0026], stating:

The wireless cable networking gateway 120 is coupled to the wide-area cable network 110 and the premises cable network 130. The wireless cable networking gateway 120 includes the antenna 125 which may be a conventional antenna configured to receive data complying with IEEE Standard 802.11(b). In other embodiments, the antenna 125 and the wireless cable networking gateway 120 may receive or transmit data according to other wireless standards.

That is, the asserted "premises cable interface" of Alba teaches an interface between a piece of equipment ("wireless cable networking **gateway 120**") and respective networks ("wide area cable **network 110**" and "premises cable **network 130**.") Applicants respectfully submit that such an interface is a communications interface or device interface between a piece of equipment and two networks, and is not a "user interface," as claimed. The Office seems to recognize as much in the rejection of Applicants' claimed "first user interface" on page 5 of the instant Office action. Such an interface does not teach or suggest "[t]he aspects of a computer system or program which can be seen (or heard or otherwise perceived) by the human user," and therefore is not in accordance with the definition that has been specifically chosen by the Office. For at least the reasons set forth above, Applicants respectfully submit that the Office has not shown where Alba teaches at least this aspect of Applicants' claims. Applicants respectfully note that the Office action of December 1, 2008 cited only Alba as teaching the "user interface" of claim 1. Further, the Office does not assert that the other cited reference, Whelan, remedies the above-noted shortcomings of the teaching of Alba. Thus, Applicants respectfully submit that the Office has not set forth a *prima facie* case of obviousness.

Applicants respectfully submit that the instant Office action also asserts, at pages 15-16, that the "access point 414" of Whelan teaches a "user interface." Applicants respectfully submit that the Office is again misinterpreting the teachings of the "access point 414" of Whelan, and its own choice of the definition of "user interface." The Office fails to explain how and why a "wireless access point 414" can be interpreted to teach a "user interface," even as described in the definition selected by the Office. The Office also fails to explain how Alba at cited paragraphs [0058] and [0059] teach a "user interface" that is "for display on the PC monitor." For at least the reasons set forth above, Applicants respectfully maintain that neither Alba nor Whelan teach at least this aspect of Applicants' claims, and that the proposed combination of Alba and Whelan accordingly can not teach or suggest Applicants' claimed "user interface."

In order to avoid further misinterpretation of the claims, Applicants have amended independent claims 1, 14, and 25 to make explicit what was implicit in the prior language regarding the claimed "user interface," and to further clarify aspects of the claimed subject matter. Support for the amendments to claims 1, 14, and 25 may be found, for example, at paragraphs [0032]-[0038], [0052], [0053], [0060], [0067]-[0081], [0090]-[0094] and Figs. 1, 2C, 3, 4, and 6.

With regard to independent claim 1, Applicants respectfully submit that claim 1 has been amended so that it now recites, in part, "[a] system supporting the communication and consumption of media using a common user interface, the system comprising: ... a first graphical user interface for display on the television display, the first graphical user interface having at least one view comprising graphical representations of one or more media channels supporting the communication and consumption of media, and having a first look and feel; ... a second graphical user interface for display on the personal computer monitor, the second graphical user interface having at least one view comprising graphical representations of the one or more media channels supporting the communication and consumption of media, and having a second look and feel." Applicants respectfully note that claims 14 and 25 have been amended to recite similar features. Applicants respectfully submit that the cited art does not teach or suggest at least these elements of claim 1.

The Office rejects claim 1 at pages 4-5 of the instant Office action stating, in part:

[Alba discloses ...] **a first user interface** (i.e. TV cable backbone 132 is coupled with WAN 110 and wireless cable networking gateway 120 which is a device interface between WAN 110 and Premise TV cable 130) **for display on the television display** (i.e. first user at TV set 134), **the first user interface supporting the communication and consumption of media, and having a first look and feel** (see Fig. 4 and para. [0009], [0010]);

(emphasis in original)

Initially, Applicants respectfully note that the Office identifies only Alba as providing support for the rejection of this aspect of claim 1. Applicants respectfully submit that none of the cited elements of Alba, namely the "TV cable backbone 132," "WAN 110," "wireless cable networking gateway 120," "premises TV cable 130," and "TV set 134" of Fig. 4 do not teach or suggest either of Applicants' claimed "first user interface" or "second user interface," as recited by claim 1. A review of paragraphs [0009] and [0010] of Alba shows that these cited portions of Alba fail to make any mention of a "user interface." Applicants have addressed the misinterpretations of the teachings of Alba and Whelan regarding a "user interface" in a prior response and above. See response of March 5, 2009 at pages 15-17. The portion of the rejection of claim 1 reproduced above recognizes that the "wireless cable networking gateway 120," is a **"device interface,"** and fails to identify a "user interface" consistent even with the definition proposed by the Office. Further, Applicants respectfully submit that the Office fails to provide the "explicit analysis" required by M.P.E.P. §2142, or any articulated reasoning that explains how and why these elements of Alba teach or suggest Applicants' claimed "user interface," as recited by claim 1.

Applicants again respectfully note that the Office relies only upon Alba in the instant rejection, and fails to assert that any portion of Whelan provides support in the rejection of the "user interface" of Applicants' claim 1. Applicants have shown that Alba does not teach at least the "user interface" aspects of Applicants' claim 1, and the Office does not assert that Whelan provides any support in the rejection of these aspects of Applicants' claim 1. Therefore, Applicants' respectfully submit that the proposed combination of Alba and Whelan, by definition, cannot teach or suggest the "user interface," as more fully recited by Applicants' claim 1. The proposed combination of Alba and Whelan, therefore, does not teach all of the elements of Applicants' claim 1, as required by M.P.E.P. §2143.03. For at least the reasons set forth above, Applicants respectfully submit that the Office has not established a *prima facie* case of obviousness as required by M.P.E.P. §2142, and that claim 1 is allowable over the cited art for at least these reasons.

In addition, Applicants respectfully submit that claim 1 has been amended to recite, in part, "software resident in a first memory at the first home and a second memory at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content, the software also enabling closed and secure communication of the one or more media channels to members of a user group, in a peer to peer manner, from the first home to the second home." Applicants respectfully submit that Applicants' are unable to discern any teaching in either Alba or Whelan of "software resident in a first memory at the first home and a second memory at the second home, the software enabling a user at the first home to construct, at the first home, the one or more media channels from user selected and scheduled media content," as claimed. Applicants are unable to find teachings of a "media channel," or of user construction of "media channels." Therefore, Applicants respectfully submit that the proposed combination of Alba and Whelan fails to teach or suggest at least these aspects of Applicants' amended claim 1. Applicants respectfully submit that claim 1 is allowable for additional reasons.

Applicants' amended claim 1 also recites that the "software resident in a first memory at the first home and a second memory at the second home" enables "closed and secure communication of the one or more media channels to members of a user group, in a peer to peer manner, from the first home to the second home." Applicants respectfully submit that Alba makes no mention at all of a "user group," and while Whelan does mention a "user group," it is in regard to assignment of "profile information," not "communication ... to members of the group," as required by Applicants' claim 1. *See id.* at ¶[0055]. Thus, the proposed combination of Alba and Whelan does not teach or suggest at least this aspect of claim 1. Applicants respectfully submit that are further reasons for the allowability of claim 1.

Applicants respectfully submit that Alba and Whelan, taken alone or in combination, do not teach or suggest "peer to peer" communication, as claimed. Although Alba mentions that "[t]he Wi-Fi device 140 may communicate directly (peer to peer) with the wireless cable networking gateway 120," at ¶[0030], Applicants

respectfully submit that direct wireless communication between elements of a wireless local area network (i.e., a WiFi network, as disclosed by Alba) is quite different from and does not teach or suggest "communication ... in a peer to peer manner, from the first home to the second home," as more fully recited by Applicants' claim 1. Thus, Applicants respectfully submit that the proposed combination of Alba and Whelan does not teach or suggest at least this aspect of Applicants' amended claim 1.

Applicants again appreciate recognition by the Office that Alba "fails to teach a first and a second associated network address and server software to identify one of the first and second-associated network addresses, and responds by identifying the other of the first and second associated network addresses to support the communication via a communication network of media between one of the first and second storage and the other of the first and second storage for consumption." See Office action at page 6. Once again, however, the Office attempts to remedy the admitted shortcoming of Alba by relying on Whelan. Applicants have previously addressed this assertion and the alleged teachings of Whelan, as asserted in the Office action mailed December 1, 2008. See response of March 5, 2009 at pages 18-21. Applicants will not repeat that prior response again here, and instead hereby incorporate the prior response as though reproduced herein in its entirety.

In response to Applicants' arguments over the rejection of December 1, 2009, the Office states, at ages 16 and 17:

Alba is silent to "server software receives a request that identifies a network address". Whelan makes up the missing of Alba by teaching DHCP server includes the server software receives a request that identifies a network address from mobile unit or user remote station (i.e. MAC address in Layer 2 of mobile unit in data package), in response DHCP only provides IP address to the mobile unit (i.e. IP address as network address) if the configuration management server allow DHCP to do so. It only happens when the mobile unit is associating with an access point (i.e. handshake between 2 devices) (Whelan, ¶0088 and ¶0091). Therefore, it have been obvious to one with ordinary skill in the art to includes server software as taught by Whelan to verify and configure to access user's remote unit

with WAP of Alba to provide IP address to authorized users
allow access in media exchange communication network.

(emphasis in original)

Initially, Applicants have previously addressed the alleged teachings of Whelan at ¶¶[0088] and ¶¶[0091], and have shown that those portions of Whelan do not teach what is asserted by the Office. See Response of March 5, 2009 at pages 19-23. The response to Applicants' argument fails to provide any explanation of how any why the cited portions of Whelan teach "software that receives a request that identifies **one of the first and second associated network addresses**, and responds by identifying the other of the first and second associated network addresses." Further, the Office provides no support from authority for the alleged actions of a "DHCP server." Applicants again respectfully maintain that Whelan fails to disclose that the "DHCP server" of Whelan "receives a request that identifies one of the first and second associated network addresses, and responds by identifying the other of the first and second associated network addresses to support the communication via the communication network of media between the first storage and the second storage for consumption," as required by Applicants' claim 1. Applicants respectfully maintain that a "DHCP server" does not receive a request that identifies a network address associated with a first entity, and that respond by identifying a network address of a second entity, as required by claim 1. Initially, Applicants respectfully submit that "DHCP" acts to **assign IP addresses to the entity making a request**, and does not identify a network address of a second entity separate from a first entity in response to a request from the first entity, as suggested by the Office. Further, Applicants respectfully submit that as shown in claim 1, the claimed "first storage" and "second storage" are recited by claim 1 as already having network addresses. Authors Kevin Washburn and Jim Evans describe the actions of network address assignment in "TCP/IP: running a successful network", Second Edition, ©1996, Addison Wesley Longman, at page 326, which states, in part:

The most significant facility provided by DHCP is its ability to *assign* individual IP addresses from a range. DHCP supports three mechanisms for IP address allocation,

'automatic allocation', 'dynamic allocation' and 'manual allocation'. Automatic allocation allows the DHCP server to permanently select an IP address from a predefined range when a new client requests configuration. With dynamic allocation the DHCP server allocates an address for a limited period, called a 'lease', and with manual allocation the network administrator assigns the IP address to be used for the client.

(emphasis in original)

As can be seen above, DHCP processes a request from a network entity by responding with a network address that has been assigned to that same network entity by the DHCP server, or by an administrator, and does not respond to a request identifying a network address of one network entity by identifying a network address of another, different, network entity. Instead, it is the requesting entity that is sent the network address to be used to identify it, in response to its own request for such an address assignment, which does not involve or identify a second network address, in accordance with the language of claim 1. Therefore, Applicants respectfully submit that the cited portions of Whelan, identified by the Office in an effort to overcome the admitted shortcomings of Alba, do not teach or suggest "software that receives a request that identifies one of the first and second associated network addresses, and responds by identifying the other of the first and second associated network addresses," as claimed. Because the Office admitted that Alba does not teach this aspect of Applicants' claim 1, and Applicants have again shown that Whelan also does not teach this aspect of claim 1, Applicants respectfully submit that the proposed combination of Alba and Whelan cannot teach or suggest at least this aspect of Applicants' claim 1.

Based at least upon the above, Applicants respectfully submit that the Office has not shown that the cited art, taken alone or in combination, teaches all of the aspects of Applicants' claim 1, that the Office has not established a *prima facie* case of obviousness by meeting the requirements of M.P.E.P. §2142 and M.P.E.P. §2143.03, that the proposed combination of Alba and Whelan does not render claim 1, or any claims that depend therefrom unpatentable, and that claim 1 and its dependent claims are allowable over the cited art.

In addition, Applicants respectfully submit that independent claims 14 and 25 have been amended to recite features similar to those of claim 1, and that claims 14 and 25 were rejected for the same reasons over the same art as claim 1. See Office action at pages 10-11. For at least these reasons, Applicants respectfully submit that claims 14 and 25, and any claims that depend therefrom, are also allowable over the cited art, for at least the reasons set forth above with respect to claim 1. Accordingly, Applicants respectfully request that the rejection of claims 1-7, 9-19, 21-31, and 33-40 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

Conclusion

In general, the Office Action makes various statements regarding the claims and the cited references that are now moot in light of the above. Thus, Applicants will not address such statements at the present time. However, Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully solicit a call to the undersigned at (312) 775-8000 to resolve any issues, should the Commissioner or staff have any questions regarding this submission.

The Commissioner is hereby authorized to charge any fees associated with this communication, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

Date: November 25, 2009

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street
Suite 3400
Chicago, Illinois 60661
Phone (312) 775-8000
Facsimile (312) 775-8100

/Kevin E. Borg/
Kevin E. Borg
Reg. No. 51,486